

## Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 SCA-01 CPR-01 L-02 SCS-03 CIAE-00

INR-07 NSAE-00 RSC-01 PM-03 NSC-05 SP-02 SS-15 PA-01

PRS-01 USIA-06 PPT-01 /062 R

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EUR:MR. VINE

S/S - MR. MOFFAT

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R 082024Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY BONN

INFO AMEMBASSY BERLIN

USMISSION USBERLIN

AMEMBASSY PARIS

AMEMBASSY LONDON

AMEMBASSY MOSCOW

C O N F I D E N T I A L STATE 029557

E.O. 11652: N/A

TAGS: PGOV, PFOR, CONS, US, GE, GW

SUBJECT: US-GDR CONSULAR NEGOTIATIONS: FRG ASSURANCES

1. DEPARTMENT OFFICER CALLED IN FRG POLITICAL COUNSELLOR  
FEBRUARY 7 TO DELIVER FOLLOWING ORAL RESPONSE TO GDR  
DEMARCHE OF DECEMBER 13.

-- WE HAVE REVIEWED THE QUESTION OF CONSULAR PROTECTION  
RAISED BY THE FRG AND HAVE CONCLUDED THAT THERE IS SUB-  
STANTIAL AGREEMENT ON THE PRACTICAL ASPECTS OF THE MATTER.

-- WE ARE PREPARED TO GO BEYOND THE POSITION TAKEN IN  
1962 AND NOT MAKE THE EXERCISE OF FRG CONSULAR PROTECTION  
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IN THE UNITED STATES DEPEND EXCLUSIVELY ON THE TERMINATION

OF RESIDENCE IN THE GDR. WE CAN AGREE TO NOTICE AND VISITING OPPORTUNITY BEING PROVIDED TO THE FRG CONSUL, IN ACCORDANCE WITH ARTICLE III (2) OF THE 1954 FCN TREATY, WHEN A GERMAN NATIONAL REQUESTS IT.

-- AS A PRACTICAL MATTER, IN VIEW OF THE SIZE AND ORGANIZATION OF THE U.S. POLICE AND PENAL SYSTEM, AND, IN PARTICULAR, THE FEDERAL NATURE OF THE U.S., WE CANNOT

GUARANTEE THAT THIS SYSTEM WILL FUNCTION FLAWLESSLY FOR PERSONS WITH EXCLUSIVELY GDR DOCUMENTATION, BUT WE WOULD SEEK TO ASSURE THAT IT WORKS WELL.

-- SHOULD A CASE ARISE IN WHICH IT IS NECESSARY TO RESOLVE A CONFLICTING CLAIM TO CONSULAR JURISDICTION OVER THE SAME PERSON, WE WILL SEEK TO DO SO IN A MANNER WHICH PROTECTS THE RIGHTS AND INTERESTS OF THE STATES INVOLVED AND OF THE INDIVIDUAL, IN A MANNER FULLY CONSISTENT WITH INTERNATIONAL LAW AS WELL AS US TRADITIONS AND PRACTICES AND THE HIGH VALUE WHICH THE US PLACES ON INDIVIDUAL FREEDOM OF CHOICE.

-- WE AGREE THAT A DEFINITION OF NATIONALITY IS NOT DESIRABLE IN A CONSULAR CONVENTION, PARTICULARLY ONE WHICH WOULD EXCLUDE THE RELEVANT RULES AND PRINCIPLES OF INTERNATIONAL LAW. WE DO NOT NORMALLY INCLUDE DEFINITIONS OF NATIONALS IN US CONSULAR AGREEMENTS AND, UNTIL RECENTLY THE GDR HAS NOT DONE SO. THEREFORE, WE WILL RESIST INCLUSION OF ANY DEFINITION OF NATIONAL IN THE US-GDR CONVENTION.

2. IN REPLY TO QUESTION, US REP SAID THAT IF GDR PRESSED TO SEE A DETAINED INDIVIDUAL WITH GDR DOCUMENTATION WHO PREFERRED DEAL WITH FRG AUTHORITIES, US WOULD HAVE NO CHOICE BUT TO PROVIDE GDR AN OPPORTUNITY FOR CONFRONTATION, SINCE TO DO OTHERWISE WOULD JEOPARDIZE OUR OWN CONSULAR ACCESS RIGHTS IN GDR. DEPTOFF EMPHASIZED HOWEVER, THAT THIS WOULD IN NO WAY DETRACT FROM FRG RIGHTS AND PREFERENCE OF INDIVIDUAL.

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3. EMBASSY REP NOTED THAT UK AND FRG NOW CONSIDERING NEW DRAFT OF POSSIBLE WRITTEN EXCHANGE ON NATIONALITY ISSUE. DEPARTMENT WOULD APPRECIATE ANY INFORMATION WHICH EMBASSY LONDON CAN DEVELOP ON THIS POINT.

4. DEPARTMENT OFFICER AND EMBASSY REP AGREED TO REMAIN IN TOUCH ON THIS ISSUE AS US-GDR NEGOTIATIONS PROCEED. KISSINGER

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## Message Attributes

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